

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

June 6, 2005

William L. Zawila
Counsel for Estate of H. L. Charles,
Robert Willing, Executor
12600 Brookhurst Street, Suite 105
Garden Grove, CA 92840

Re: KZPE-FM, Ford City, California
Request for Waiver of Regulatory Fees
Fee Control No. 00000RROG-05-037

Dear Mr. Zawila:

This responds to your February 10, 2005 petition on behalf of the Estate of H. L. Charles, Robert Willing, Executor (Charles Estate), for waiver of regulatory fees¹ for KZPE-FM, Ford City, California. Our records show that the FY 2003 regulatory fee of \$468.75, which includes the late payment penalty, has not been paid.

In your petition, you state that KZPE-FM is a dark station that was forced to cease operation due to severe financial problems. You also state that as a dark station, KZPE-FM has no revenue and continues to face financial hardship. You add that the Charles Estate is insolvent and may possibly enter bankruptcy. You further state that KZPE-FM is the only local service at Ford City, California, and in the public interest should be returned to the air to provide service as soon as possible. Finally, you state that grant of your waiver request will allow reinstatement of your application to transfer KZPE-FM to Lazer Broadcast Corporation, which will return KZPE-FM to the air to provide service to the public.

In Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762 para. 15 (1995), the Commission determined that the imposition of a regulatory fee could be an impediment to the restoration of service by the *licensee* of a dark station and that it would, therefore, waive the fee requirement for stations that have ceased operations pursuant to permission granted by the Commission. Although you characterize KZPE-FM as a "dark station," you provide no evidence in your petition, and our records do not indicate, that you have been issued a license for this station. In fact, the Commission's records show that the relevant authorization for KZPE-FM at the time the regulatory fee was due was (and remains) a construction permit. Because the provisions of Section 73.1740 of the Commission's rules, concerning minimum operating schedules, are applicable only to *licensees* of broadcast stations and because KZPE-FM was only a *permittee* at the time the fee was due, any operation of the station was entirely at the discretion of the permittee. In sum, there is nothing to support your claim that a

¹ Your petition does not state the fiscal year for which you request waiver of the regulatory fees.

William L. Zawila

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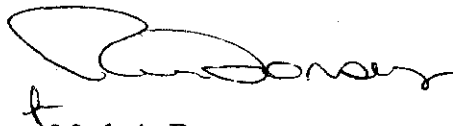
regulatory fee waiver is warranted for KZPE-FM. Therefore, your request for waiver is denied.

Payment of the FY 2003 regulatory fee and penalty in the amount of \$468.75 is now due. The regulatory fee should be filed with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter.

As to your request that your application to transfer KZPE-FM to Lazer Broadcasting be reinstated, please note that we will address this matter separately from your fee waiver request.

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a stylized flourish at the end.

Mark A. Reger
Chief Financial Officer

RETURN COPY

BEFORE THE
Federal Communications Commission
 WASHINGTON, D.C.

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Federal Communication Commission
 Bureau / Office

In Re Estate of H.L. Charles,)
 Robert Willing, Executor,)
 Petitioner -)
 Radio Station KZPE(FM),)
 Ford City, CA)

File No. BAPF-20040217AEI

To: The Managing Director and
 Chief, Media Bureau

PETITION FOR WAIVER OF REGULATORY FEES AND FOR
REINSTATEMENT OF APPLICATION -

Petitioner Estate of H.L. Charles, Robert Willing, Executor, hereby requests that the Commission waive regulatory fees for KZPE(FM), Ford City, California, and reinstate the above-referenced application for assignment of KZPE(FM) from the Estate of H.L. Charles, Robert Willing, Executor, to Lazer Broadcasting Corporation.

On January 7, 2005, the Commission issued a letter to the Estate of H.L. Charles, Robert Willing, Executor, dismissing the above-referenced application for failure to pay a regulatory fee for KZPE(FM). In its letter of January 7, 2005, the Commission referred to an earlier letter of November 8, 2004, characterized as a "red light letter" which apparently was the basis for the dismissal announced in the letter of January 7, 2005. The letter

of January 7, 2005, was directed to Washington counsel for the Estate of H.L. Charles, Robert Willing, Executor, Katten Muchin Zavis & Rosenman.

The letter of November 8, 2004, characterized as a "red light letter" was never received by the Estate of H.L. Charles, Robert Willing, Executor prior to the letter of January 7, 2005, which announced the dismissal of the above-referenced application. It is the belief of the petitioner that the "red light letter" of November 8, 2004, was never received by the petitioner due to a deficient or incorrect address on the letter.

If the above-referenced "red light letter" of November 8, 2004, had been received by the petitioner, a petition for waiver of the regulatory fees discussed in the letter would have been filed prior to the dismissal of the above-referenced application.

REQUEST FOR WAIVER OF REGULATORY FEES -

KZPE(FM) is a dark station that was forced to cease operation due to severe financial problems. As a dark station, KZPE(FM) has no revenue and continues to face financial hardship. The petitioner, the Estate of H.L. Charles, Robert Willing, Executor, is insolvent and bankruptcy is a distinct possibility. KZPE(FM) is the only local service at Ford City, California. In the public interest, KZPE(FM) should be returned to the air to provide service as soon as possible. Waiver of the regulatory fees for KZPE(FM) would allow reinstatement of the above-referenced application which seeks to transfer KZPE(FM) to a known and financially capable broadcast licensee who will return KZPE(FM) to the air

to provide service to the public.

In its letter of March 18, 1996, to William L. Zawila, Esquire, regarding Western Pacific Broadcasting, Inc. and Radio Station KKFO, Coalinga, California, the Commission noted that "dark stations are generally either without or with greatly reduced revenues" and "found that imposition of a regulatory fee could impede a return of a dark station to the air" and "held that it would waive the regulatory fee for dark stations."

Petitioner submits that it would be appropriate and in the public interest to waive the regulatory fee for KZPE(FM) so that the above-referenced application may be reinstated seeking transfer of KZPE(FM) to Lazer Broadcasting Corporation.

Attached hereto for ease of reference is a copy of the above-mentioned letter from the Commission dated March 18, 1996, concerning waiver of regulatory fees.

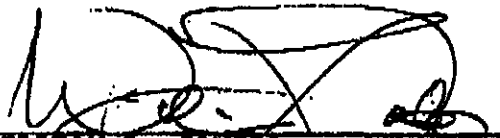
REQUEST FOR REINSTATEMENT OF APPLICATION -

Petitioner requests that the above-referenced application be reinstated in conjunction with a waiver of the above-discussed regulatory fees for KZPE(FM). The only ground for dismissal of the above-referenced application was failure to pay regulatory fees for KZPE(FM). Waiver of such regulatory fees would allow reinstatement of the above-referenced application which seeks to transfer KZPE(FM) to Lazer Broadcasting Corporation, a known and financially capable broadcast licensee who will return KZPE(FM) to the air to provide service to the public at the earliest possible date.

Petitioner submits that the waiver of regulatory fees for K2PE(FM) and the reinstatement of the above-referenced application would serve the public interest and that this petition should be granted for the reasons discussed above.

Respectfully submitted,

February 10, 2005



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